

**FILED**

**JUL 27 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ARMANDO CRUZ-LEMUS,

Defendant - Appellant.

No. 05-50166

D.C. No. CR-04-01223-AHM-1

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
A. Howard Matz, District Judge, Presiding

Submitted July 24, 2006<sup>\*\*</sup>

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Armando Cruz-Lemus appeals from the sentence imposed following his guilty plea to being a deported alien found in the United States, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Cruz-Lemus contends that his sentence is unreasonable under *United States v. Booker*, 543 U.S. 220 (2005). “In determining whether a sentence is unreasonable, we are guided by the sentencing factors set forth in 18 U.S.C. § 3553(a), including the sentencing range established by the Sentencing Guidelines.” *United States v. Plouffe*, 445 F.3d 1126, 1131 (9th Cir. 2006).

Upon review, we conclude that the district court properly considered the Guidelines and analyzed the § 3553 factors before imposing a 48-month sentence, below the 77-96 month Guidelines range. It sufficiently considered Cruz-Lemus’ history and characteristics, his familial ties to the United States, his rehabilitation, the seriousness of the offense, respect for the law, and just punishment. *See Plouffe*, 445 F.3d at 1131. Cruz-Lemus’ contention that his sentence was higher than what the court had previously imposed upon other defendants with similar facts also does not render his sentence unreasonable. *See id.*

Cruz-Lemus further contends that his sentence is unreasonable because of the sentencing disparity between a non-fast-track jurisdiction and a fast-track jurisdiction. This contention is foreclosed by *United States v. Marcial-Santiago*, 447 F.3d 715, 719 (9th Cir. 2006).

**AFFIRMED.**